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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-1005**

12 **WENDY DENISE ALLEN,**  
13 **aka WENDY DENISE ALLEN-WYATT,**  
14 **aka WENDY DENISE BALDWIN**  
**2314 N. Brunswick Avenue**  
**Fresno, CA 93722**  
**Registered Nurse License No. 438568**

**ACCUSATION**

15  
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about May 31, 1989, the Board issued Registered Nurse License Number  
23 438568 to Wendy Denise Allen, also known as Wendy Denise Allen-Wyatt and Wendy Denise  
24 Baldwin ("Respondent"). Respondent's registered nurse license expired on May 31, 2010.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed  
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

11 . . . .

12 (f) Conviction of a felony or of any offense substantially related to the  
13 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof . . .

14 6. Code section 2765 states:

15 A plea or verdict of guilty or a conviction following a plea of nolo  
16 contendere made to a charge substantially related to the qualifications, functions and  
17 duties of a registered nurse is deemed to be a conviction within the meaning of this  
18 article. The board may order the license or certificate suspended or revoked, or may  
19 decline to issue a license or certificate, when the time for appeal has elapsed, or the  
20 judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a subsequent  
order under the provisions of Section 1203.4 of the Penal Code allowing such person  
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
the verdict of guilty, or dismissing the accusation, information or indictment.

21 7. Code section 2762 states, in pertinent part:

22 In addition to other acts constituting unprofessional conduct within the  
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
person licensed under this chapter to do any of the following:

24 (a) Obtain or possess in violation of law, or prescribe, or except as  
25 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
26 himself or herself, or furnish or administer to another, any controlled substance as  
defined in Division 10 (commencing with Section 11000) of the Health and Safety  
Code or any dangerous drug or dangerous device as defined in Section 4022.

27 (b) Use any controlled substance as defined in Division 10 (commencing  
28 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or

1 in a manner dangerous or injurious to himself or herself, any other person, or the  
2 public or to the extent that such use impairs his or her ability to conduct with safety to  
3 the public the practice authorized by his or her license . . .

4 8. Code section 2770.11 states:

5 (a) Each registered nurse who requests participation in a diversion  
6 program shall agree to cooperate with the rehabilitation program designed by a  
7 committee. Any failure to comply with the provisions of a rehabilitation program  
8 may result in termination of the registered nurse's participation in a program. The  
9 name and license number of a registered nurse who is terminated for any reason,  
10 other than successful completion, shall be reported to the board's enforcement  
11 program.

12 (b) If a committee determines that a registered nurse, who is denied  
13 admission into the program or terminated from the program, presents a threat to the  
14 public or his or her own health and safety, the committee shall report the name and  
15 license number, along with a copy of all diversion records for that registered nurse, to  
16 the board's enforcement program. The board may use any of the records it receives  
17 under this subdivision in any disciplinary proceeding.

18 9. Code section 4060 states, in pertinent part;

19 No person shall possess any controlled substance, except that furnished to  
20 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
21 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
22 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
23 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to  
24 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
25 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
26 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 . . .

27 10. Health and Safety Code section 11170 states that no person shall prescribe,  
28 administer, or furnish a controlled substance for himself.

### COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licentiate found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case.

### CONTROLLED SUBSTANCES

12. "Methamphetamine" is a Schedule II controlled substance as designated by Health  
and Safety Code section 11055, subdivision (d)(2).

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1       13. "Norco", a brand of hydrocodone bitartrate and acetaminophen, is a Schedule III  
2 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

3       14. "Vicodin" is a compound consisting of 5 mg hydrocodone bitartrate, also known as  
4 dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III controlled  
5 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

6       15. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety  
7 Code section 11054, subdivision (d)(13).

8                   **RESPONDENT'S TERMINATION FROM BOARD'S**  
9                   **DIVERSION PROGRAM AS A PUBLIC SAFETY RISK**

10       16. On or about November 19, 2009, Respondent was enrolled in the Board's Diversion  
11 Program. On or about December 14, 2009, the Diversion Evaluation Committee ("DEC")  
12 terminated Respondent from the Diversion Program as a public safety risk due to Respondent's  
13 long history of alcohol and narcotic abuse, Respondent's use of methamphetamine as recently as  
14 June 2009, Respondent's arrest on August 19, 2009, for possession of methamphetamine and  
15 drug paraphernalia and for being under the influence, Respondent's failure to comply with any of  
16 the Diversion Program requirements, and Respondent's admission that she has worked in the past  
17 while under the influence.

18                   **FIRST CAUSE FOR DISCIPLINE**

19                   **(Criminal Conviction)**

20       17. Respondent is subject to disciplinary action pursuant to Code section 2761,  
21 subdivision (f), in that on or about June 14, 2010, in the criminal proceeding titled *People v.*  
22 *Wendy Denise Allen* (Super. Ct. Fresno County, 2010, Case No. M09101004), Respondent pled  
23 nolo contendere to violating Health and Safety Code section 11364 (possession of a device,  
24 contrivance, instrument, or paraphernalia used for injecting and ingesting a controlled substance,  
25 a misdemeanor), a crime substantially related to the qualifications, functions, and duties of a  
26 registered nurse. The circumstances of the crime are as follows: On or about August 19, 2009,  
27 Sergeant Kristopher Puegh of the Coalinga State Hospital Police Department (located in  
28 Coalinga, California) was contacted by a Unit Supervisor, who reported that Respondent was

1 believed to be under the influence of a controlled substance (Respondent was employed as a  
2 registered nurse at the hospital). The Unit Supervisor informed Sergeant Puegh that when  
3 Respondent was confronted with having to undergo a drug test, she attempted to leave the facility,  
4 but was stopped by officers at the Key Control Sally Port. Sergeant Puegh made contact with  
5 Respondent and conducted an evaluation to determine whether she was under the influence of a  
6 controlled substance. Sergeant Puegh found that Respondent showed objective symptoms of  
7 impairment and placed her under arrest. Sergeant Alicia Montes and K-9 Officer Adrian  
8 Enriquez conducted a search of Respondent's vehicle and found a glass smoking pipe and a small  
9 baggie containing a white powder-like substance. While her vehicle was being searched,  
10 Respondent admitted to Sergeant Orasio Romero that she had "smoked" some crystal  
11 methamphetamine at approximately 0500 hours, that she had taken a Norco pill at approximately  
12 0900 hours, and that she had used crystal methamphetamine one or two times a week for the past  
13 two years. The white powder found in Respondent's vehicle was tested and determined to be  
14 methamphetamine.

## 15 **SECOND CAUSE FOR DISCIPLINE**

### 16 **(Possession and Self-Administration of Controlled Substances)**

17 18. Respondent is subject to disciplinary action pursuant to Code section 2761,  
18 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
19 subdivision (a), in that Respondent did the following:

#### 20 **Possession of Controlled Substances:**

21 a. On or about August 19, 2009, Respondent possessed an unknown quantity of the  
22 controlled substance methamphetamine, as set forth in paragraph 17 above, without a valid  
23 prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor,  
24 in violation of Code section 4060.

#### 25 **Self-Administration of Controlled Substances:**

26 b. On or about August 19, 2009, Respondent self-administered the controlled substance  
27 methamphetamine without lawful authority therefor, as set forth in paragraph 17 above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Use of Alcoholic Beverages and Controlled Substances to an Extent  
3 or in a Manner Dangerous or Injurious to Oneself and Others)

4 19. Respondent is subject to disciplinary action pursuant to Code section 2761,  
5 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
6 subdivision (b), in that Respondent used alcohol and the controlled substances methamphetamine  
7 and Vicodin to an extent or in a manner dangerous or injurious to herself, other persons, and the  
8 public and/or to the extent that such use impaired her ability to conduct her nursing duties safely,  
9 as follows:

10 a. On or about August 19, 2009, while on duty as a registered nurse at Coalinga State  
11 Hospital, Respondent was found under the influence of a controlled substance, as set forth in  
12 paragraph 17 above.

13 b. On or about July 21, 2010, Investigators with the Division of Investigation,  
14 Department of Consumer Affairs, conducted a search of Respondent's residence (Respondent  
15 consented to the search). The investigators found glass pipes used for smoking or ingesting  
16 marijuana and methamphetamine in Respondent's master bathroom. One of the investigators  
17 interviewed Respondent while the search was being conducted. Respondent stated, in substance,  
18 as follows: Respondent entered an inpatient facility approximately 15 to 20 years ago for  
19 treatment of an alcohol addiction and last used alcohol 6 or 7 months ago. Respondent first used  
20 methamphetamine approximately 8 years ago and used the drug every couple of months.  
21 Approximately two years ago, Respondent began using methamphetamine on a daily basis and  
22 spent about \$20 per day buying the drug. Respondent has also been using prescription Vicodin  
23 regularly since the early 1990's. In the early 2000's, Respondent recognized that she was  
24 addicted to Vicodin and stopped taking it for a period of time, but resumed her use in December  
25 2008. Respondent has occasionally purchased Vicodin "off the street" due to her drug addiction  
26 and has also used marijuana approximately twice a year.

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1 PRAYER

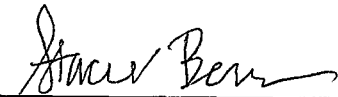
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 438568, issued to Wendy  
5 Denise Allen, also known as Wendy Denise Allen-Wyatt and Wendy Denise Baldwin;

6 2. Ordering Wendy Denise Allen, also known as Wendy Denise Allen-Wyatt and  
7 Wendy Denise Baldwin, to pay the Board of Registered Nursing the reasonable costs of the  
8 investigation and enforcement of this case, pursuant to Business and Professions Code section  
9 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

11  
12 DATED: June 28, 2011

for   
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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